

2025 Regular Session

HOUSE BILL NO. 181

BY REPRESENTATIVE WILEY

(On Recommendation of the Louisiana State Law Institute)

AN ACT

To amend and reenact Civil Code Articles 14, 159, 234, 811(B), 1805, 1899, 1900, the heading of Chapter 7 of Title IV of Book III of the Civil Code, and Civil Code Articles 1978, 1979, 1981, 1985, 2021, 2035, 2315.1(E), 2315.2(E), 2321(C)(3), 2442, 2701, 2806(B) and (C), 2838, 2841, 2843, 2844(A) and (C), 3025, 3506, and 3536, to enact Civil Code Articles 15 and 3514, and to repeal Civil Code Article 3343, relative to the signification of terms; to provide for definitions; to provide for use of gender and number; to provide with respect to parental authority; to provide with respect to abandonment in the survival and wrongful death actions; to provide with respect to multistate cases and conflict of laws; to provide with respect to third persons and third parties; to provide for Comments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Articles 14, 159, 234, 811(B), 1805, 1899, 1900, the heading of Chapter 7 of Title IV of Book III of the Civil Code, and Civil Code Articles 1978, 1979, 1981, 1985, 2021, 2035, 2315.1(E), 2315.2(E), 2321(C)(3), 2442, 2701, 2806(B) and (C), 2838, 2841, 2843, 2844(A) and (C), 3025, 3506, and 3536 are hereby amended and reenacted and Civil Code Articles 15 and 3514 are hereby enacted to read as follows:

~~CHAPTER 3. CONFLICT OF LAWS~~

Art. 14. ~~Multistate cases~~ Use of gender

~~Unless otherwise expressly provided by the law of this state, cases having contacts with other states are governed by the law selected in accordance with the~~

~~provisions of Book IV of this Code. Unless the context indicates otherwise, words~~
used with reference to one gender apply to other genders.

Revision Comments - 2025

This Article does not change the law. It restates the principles that existed in prior Article 3506(1). It is also consistent with other similar provisions on interpretation of laws. See, e.g., Code of Civil Procedure Article 5055; R.S. 1:8.

Art. 15. Use of number

Unless the context indicates otherwise, words used in the singular include the plural, and the plural includes the singular.

Revision Comments - 2025

This Article does not change the law. It restates the principles that existed in prior Article 3506(2) and reformulates them to be consistent with Code of Civil Procedure Article 5055 and R.S. 1:7.

* * *

Art. 159. Effect of divorce on community property regime

A judgment of divorce terminates a community property regime retroactively to the date of filing of the petition in the action in which the judgment of divorce is rendered. The retroactive termination of the community shall be without prejudice to rights of third ~~parties~~ persons validly acquired in the interim between the filing of the petition and recordation of the judgment.

* * *

Art. 234. Parental authority; custody award

Parental authority continues during marriage, unless modified by a judgment awarding custody to one parent, by a joint custody implementation order, or by a judgment awarding custody to a third person other than a parent.

An ascendant, other than a parent, who is awarded custody has parental authority. The authority of a ~~third~~ person who is awarded custody, other than a parent or an ascendant, is governed by the rules of tutorship, unless modified by court order.

* * *

Art. 811. Partition by licitation or by private sale

* * *

1 B. In the event that one or more of the co-owners are absentees or have not
2 consented to a partition by private sale, the court shall order a partition by private
3 sale and shall give first priority to the private sale between the existing co-owners,
4 over the sale by partition by licitation or private sale to third ~~parties~~ persons. The
5 court shall order the partition by private sale between the existing co-owners as
6 identified in the conveyance records as of the date of filing for the petition for
7 partition by private sale. The petition for partition by private sale shall be granted
8 first priority, and the sale shall be executed under Title IX of Book VII of the Code
9 of Civil Procedure.

10 * * *

11 Art. 1805. Enforcement of contribution

12 A party sued on an obligation that would be solidary if it exists may seek to
13 enforce contribution against any solidary co-obligor by making him a ~~third-party~~
14 third-party defendant according to the rules of procedure, whether or not that ~~third~~
15 ~~party~~ third-party defendant has been initially sued, and whether the party seeking to
16 enforce contribution admits or denies liability on the obligation alleged by plaintiff.

17 * * *

18 Art. 1899. Rights acquired by third ~~parties~~ persons

19 Compensation can neither take place nor may it be renounced to the prejudice
20 of rights previously acquired by third ~~parties~~ persons.

21 Art. 1900. Assignment by obligee

22 An obligor who has consented to an assignment of the credit by the obligee
23 to a third ~~party~~ person may not claim against the ~~latter~~ third person any
24 compensation that the obligor otherwise ~~he~~ could have claimed against the ~~former~~
25 obligee.

26 An obligor who has been given notice of an assignment to which ~~he~~ the
27 obligor did not consent may not claim compensation against the assignee for an
28 obligation of the assignor arising after that notice.

29 * * *

1 CHAPTER 7. ~~THIRD PARTY~~ THIRD-PARTY BENEFICIARY2 Art. 1978. Stipulation for the benefit of a third party person3 A contracting party may stipulate a benefit for a third person called a ~~third~~
4 ~~party~~ third-party beneficiary.5 Once the ~~third party~~ third-party beneficiary has manifested his intention to
6 avail himself of the benefit, the parties may not dissolve the contract by mutual
7 consent without the beneficiary's agreement.

8 Art. 1979. Revocation

9 The stipulation may be revoked only by the stipulator and only before the
10 ~~third party~~ third-party beneficiary has manifested his intention of availing himself
11 of the benefit.12 If the promisor has an interest in performing, however, the stipulation may
13 not be revoked without his consent.

14 * * *

15 Art. 1981. Rights of beneficiary and stipulator

16 The stipulation gives the ~~third party~~ third-party beneficiary the right to
17 demand performance from the promisor.18 Also the stipulator, for the benefit of the ~~third party~~ third-party beneficiary,
19 may demand performance from the promisor.

20 * * *

21 Art. 1985. Effects for third ~~parties~~ persons22 Contracts may produce effects for third ~~parties~~ persons only when provided
23 by law.

24 * * *

25 Art. 2021. Rights of third ~~party person~~ in good faith26 Dissolution of a contract does not impair the rights acquired through an
27 onerous contract by a third ~~party person~~ in good faith.

28 If the contract involves immovable property, the principles of recordation

1 apply to a third person acquiring an interest in the property whether by onerous or
2 gratuitous title.

3 * * *

4 Art. 2035. Rights of third ~~party~~ person in good faith

5 Nullity of a contract does not impair the rights acquired through an onerous
6 contract by a third ~~party~~ person in good faith.

7 If the contract involves immovable property, the principles of recordation
8 apply to a third person acquiring an interest in the property whether by onerous or
9 gratuitous title.

10 * * *

11 Art. 2315.1. Survival action

12 * * *

13 E. For purposes of this Article, a father or mother who has abandoned the
14 deceased during his minority is deemed not to have survived him. Abandonment is
15 presumed when the father or mother has left his child for a period of at least twelve
16 months and the father or mother has failed to provide for the child's care and support,
17 without just cause, thus demonstrating an intention to permanently avoid parental
18 responsibility.

19 Revision Comments - 2025

20 This revision does not change the law. It redesignates and reproduces the
21 substance of former Article 3506(3) as a second sentence of Paragraph E of this
22 Article.

23 Art. 2315.2. Wrongful death action

24 * * *

25 E. For purposes of this Article, a father or mother who has abandoned the
26 deceased during his minority is deemed not to have survived him. Abandonment is
27 presumed when the father or mother has left his child for a period of at least twelve
28 months and the father or mother has failed to provide for the child's care and support,
29 without just cause, thus demonstrating an intention to permanently avoid parental
30 responsibility.

Revision Comments - 2025

This revision does not change the law. It redesignates and reproduces the substance of former Article 3506(3) as a second sentence of Paragraph E of this Article.

* * *

Art. 2321. Damage caused by animals; livestock

* * *

C. The owner of livestock is liable for damages for injuries to persons or property caused by the livestock that escape an enclosure and the owner could have prevented by an exercise of reasonable care. The owner of livestock is not liable for damages for injuries to person or property for livestock that escape an enclosure due to any of the following:

* * *

(3) ~~Third-party~~ Third person provocation of the livestock.

* * *

Art. 2442. Recordation of sale of immovable to affect third ~~parties~~ persons

The parties to an act of sale or promise of sale of immovable property are bound from the time that the act is made, but such an act is not effective against third ~~parties~~ persons until it is filed for registry according to the laws of registry.

* * *

Art. 2701. Call in warranty

The lessor is bound to take all steps necessary to protect the lessee's possession against any disturbance covered by ~~the preceding~~ Article, 2700 as soon as the lessor is informed of such a disturbance. If the lessor fails to do so, the lessee may, without prejudice to his rights against the lessor, file any appropriate action against the person who caused the disturbance.

If a third ~~party~~ person brings against the lessee an action asserting a right in the thing or contesting the lessee's right to possess it, the lessee may join the lessor as a party to the action and shall be dismissed from the action, if the lessee so demands.

* * *

1 Art. 2806. Ownership of immovable property; retroactivity of partnership's
2 existence; acquisition of immovable property prior to partnership's existence

3 * * *

4 B. As to third ~~parties~~ persons, the individual partners shall be deemed to own
5 immovable property acquired in the name of the partnership until the contract of
6 partnership is filed for registry with the secretary of state as provided by law.

7 C. Whenever any immovable property is acquired by one or more persons
8 acting in any capacity for and in the name of any partnership ~~which~~ that has not been
9 created by contract as required by law, and the partnership is subsequently created
10 by contract in accordance with this Title ~~XI of Book III of the Civil Code~~, the
11 partnership's existence shall be retroactive to the date of acquisition of an interest in
12 ~~such~~ the immovable property, but ~~such~~ the retroactive effect shall be without
13 prejudice to rights validly acquired by third persons in the interim between the date
14 of acquisition and the date that the partnership was created by contract.

15 * * *

16 Art. 2838. Name; designation as partnership in commendam:

17 For the liability of a partner in commendam to be limited as to third ~~parties~~
18 persons, the partnership ~~must~~ shall have a name that appears in the contract of
19 partnership; the name ~~must~~ shall include language that clearly identifies it as a
20 partnership in commendam, such as language consisting of the words "limited
21 partnership" or "partnership in commendam"; and the name ~~must~~ shall not imply that
22 the partner in commendam is a general partner.

23 * * *

24 Art. 2841. Contract form; registry:

25 A contract of partnership in commendam ~~must~~ shall be in writing and filed
26 for registry with the secretary of state as provided by law. Until the contract is filed
27 for registry, partners in commendam are liable to third ~~parties~~ persons in the same
28 manner as general partners.

29 * * *

30 Art. 2843. Restrictions on the partner in commendam with regard to management
31 or administration of the partnership:

A partner in commendam does not have the authority of a general partner to bind the partnership, to participate in the management or administration of the partnership, or to conduct any business with third ~~parties~~ persons on behalf of the partnership.

Art. 2844. Liability of the partner in commendam to third parties persons

A. A partner in commendam is not liable for the obligations of the partnership unless ~~such~~ the partner is also a general partner or, in addition to the exercise of ~~such~~ the partner's rights and powers as a partner, ~~such~~ the partner participates in the control of the business. ~~However, if~~ If, however, the partner in commendam participates in the control of the business, ~~such~~ the partner is liable only to persons who transact business with the partnership reasonably believing, based upon the partner in commendam's conduct, that the partner in commendam is a general partner.

* * *

C. The enumeration in Paragraph B of this Article does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by such the partner in the business of the partnership.

* * *

Art. 3025. Termination by principal

The principal may terminate the mandate and the authority of the mandatary at any time. A mandate in the interest of the principal, and also of the mandatary or of a third ~~party~~ person, may be irrevocable, if the parties so agree, for as long as the object of the contract may require.

* * *

Art. 3506. General definitions of terms

Whenever the terms of law, employed in this Code, have not been particularly defined therein otherwise, they shall be understood as follows:

~~1. The masculine gender comprehends the two sexes, whenever the provision is not one, which is evidently made for one of them only:~~

1 ~~Thus, the word man or men includes women; the word son or sons includes~~
2 ~~daughters; the words he, his and such like, are applicable to both males and females.~~

3 ~~2. The singular is often employed to designate several persons or things: the~~
4 ~~heir, for example, means the heirs, where there are more than one.~~

5 ~~3. Abandoned.--In the context of a father or mother abandoning his child,~~
6 ~~abandonment is presumed when the father or mother has left his child for a period~~
7 ~~of at least twelve months and the father or mother has failed to provide for the child's~~
8 ~~care and support, without just cause, thus demonstrating an intention to permanently~~
9 ~~avoid parental responsibility.~~

10 ~~5. Assigns.--Assigns means those to whom~~ (1) Assignment. An assignment
11 ~~is a transfer of rights have been transmitted by particular title;~~ such as by sale,
12 ~~donation, or particular legacy, transfer or cession.~~

13 ~~8. Children. Under this name are included those persons born of the~~
14 ~~marriage, those adopted, and those whose filiation to the parent has been established~~
15 ~~in the manner provided by law, as well as descendants of them in the direct line.~~

16 ~~A child born of marriage is a child conceived or born during the marriage of~~
17 ~~his parents or adopted by them.~~

18 ~~A child born outside of marriage is a child conceived and born outside of the~~
19 ~~marriage of his parents.~~

20 ~~12. Family.--Family in a limited sense, signifies father, mother, and children.~~
21 ~~In a more extensive sense, it comprehends all the individuals who live under the~~
22 ~~authority of another, and includes the servants of the family.~~

23 ~~It is also employed to signify all the relations who descend from a common~~
24 ~~root.~~

25 (2) Juridical act. A juridical act is a manifestation of will intended to
26 produce legal consequences. Juridical acts may be unilateral, such as donations
27 mortis causa, or bilateral, such as contracts.

28 ~~28. (3) Successor.--Successor is, generally speaking, the~~ A successor is a
29 ~~person who takes the place of another. There are in law two sorts kinds of~~
30 ~~successors: the universal successor, such as the heir, the universal legatee, and the~~

1 general legatee; and the particular successor ~~by particular title~~, such as the buyer,
2 donee, or particular legatee ~~of particular things, the transferee~~. The universal
3 successor represents the person of the deceased; and succeeds to ~~all~~ his rights and
4 charges. The particular successor succeeds only to the rights appertaining to the
5 thing ~~which~~ that is sold, ~~ceded~~ donated, or bequeathed, or otherwise transferred to
6 him.

7 32. (4) Third Persons. ~~person. With respect to a contract or judgment, third~~
8 ~~persons are all who are not parties to it. In case of failure, third persons are,~~
9 ~~particularly, those creditors of the debtor who contracted with him without~~
10 ~~knowledge of the rights which he had transferred to another. A third person is a~~
11 ~~person who is not a party to a ceremony, an instrument, a juridical act, a judgment,~~
12 ~~or a legal relationship. Examples of third persons include officiants to ceremonies,~~
13 ~~witnesses to instruments or juridical acts, and all those other than obligor and obligee~~
14 ~~to the legal relationship between the former and the latter. With respect to an~~
15 ~~obligation, a third person does not include a person such as a universal successor or~~
16 ~~a person who assumes the obligation or is bound by contract to recognize it.~~

17 Revision Comments - 2025

18 (a) This revision updates and reorganizes many of the concepts that were
19 contained in prior Article 3506. Provisions regarding interpretation of the Civil Code
20 have been relocated to the Preliminary Title. See, e.g., Articles 14 and 15. Other
21 definitions more appropriate to specific sections of the Civil Code have also been
22 relocated to their appropriate places. See, e.g., Articles 2315.1 and 2315.2.

23 (b) Given the civil law's tendency to omit definitions in civil codes, this
24 revision has retained only a minimal number of defined concepts. For example, the
25 term "assignment" has been included with only slight modification from its
26 predecessor term "assigns." The inclusion of the term "assignment" in this Article
27 is not intended to disturb the developed jurisprudence concerning the distinction
28 between an assignment and a sublease in the mineral law context. The revision adds
29 a new definition of the term "juridical act," which was not previously included in the
30 prior law. The term "juridical act" has been included for didactic reasons and because
31 of its overarching importance throughout the Civil Code. A juridical act may be in
32 writing, as in the case of a "just title," see, e.g., Article 3483, or it may be oral, as in
33 the context of general contract formation. See, e.g., Article 1927. The definition
34 included in this revision is consistent with general civil law theory. The term
35 "successor" has also been retained given its importance throughout the Civil Code,
36 but its meaning has not been changed. The term "successor by particular title" has
37 been modernized and changed to the term "particular successor" solely for
38 consistency purposes. The distinction between things "donated" by means of an inter
39 vivos donation and things "bequeathed" by a legacy in a testament has been
40 preserved in the definition of "particular successor," and no substantive
41 differentiation is intended by the use of different terms. The word "bequeathed" has

1 been retained solely because of its use in other substantive provisions of the Civil
2 Code. See, e.g., Articles 935, 1229, 1231, 1234, 1299, 1300, 1307, 1351, 1586, 1613,
3 and 1725. The term "successor" used in this Article and throughout the Civil Code
4 has a meaning that is similar, but not identical, to the term "legal successor" used in
5 the Code of Civil Procedure. See, e.g., Code of Civil Procedure Articles 801 through
6 805 and 2701 through 2703.

7 (c) The term "third person" has been revised and updated to accord with its
8 modern and varied usage throughout the Civil Code. The definition of "third person"
9 in this Article includes the substance of former Article 3343 but expands upon it to
10 accommodate usage of the term in other parts of the Civil Code. A "third person"
11 is one who is not a party to the underlying transaction, obligation, or right. In the
12 context of marriage, a "third person" is anyone, including the officiant, other than the
13 individuals who are contracting marriage. See, e.g., Article 91. In the context of
14 instruments or juridical acts, a third person is anyone who is not a maker of the
15 instrument or a party bound by the juridical act. See, e.g., Articles 3342 and 3353.
16 In other contexts, the Civil Code uses the term "third person" to refer to persons not
17 a party to a specified legal relationship. See, e.g., Article 468 (pertaining to
18 deimmobilization in the absence of rights of third persons (i.e., one other than the
19 owner and a transferor)); Article 598 (referring to the encroachment on a usufruct by
20 a third person (i.e., one other than usufructuary or naked owner)); Article 1521
21 (referring to dispositions by a third person (i.e., one other than a donor and donee)
22 pursuant to a vulgar substitution); Article 1961 (pertaining to duress by a third
23 person (i.e., one other than offeror or offeree)); and Article 2465 (pertaining to a
24 sales price left to the determination of a third person (i.e., one other than a vendor or
25 a vendee)). Importantly, the articles of the Civil Code pertaining to assignment,
26 assumption, and subrogation make reference to agreements between parties to the
27 original relationship and third persons to whom rights are transferred or who assume
28 obligations. In the context of those articles, it is clear that the term "third person"
29 similarly refers to a person who is not a party to the original obligation.
30 Nevertheless, once the assignment, assumption, or subrogation occurs, the relevant
31 third person enjoys certain rights or undertakes certain obligations pursuant to the
32 original obligation and is no longer properly considered a third person to those rights
33 or obligations. For the extent of the rights assigned or obligations assumed, see, e.g.,
34 Articles 1821 through 1827 and 1900. Universal successors are also excluded from
35 the definition of "third person" as universal successors "represent[] the person of the
36 deceased," "acquire ownership of the estate," may be "liable to creditors for the
37 payment of the estate debts," and "continue[] the possession of the decedent with all
38 its advantages and defects." See Articles 3506(3), 935, 1416(A), and 936. The
39 definition of the term "third person" as used in the Civil Code does not implicate the
40 meaning of the same term used in the Code of Civil Procedure, see, e.g., Code of
41 Civil Procedure Article 1091, or the meaning of the term "third possessor," which
42 is used in the Civil Code and defined in Article 3315.

43 (d) Other terms, such as "family," have been deleted because the prior
44 definition was inaccurate and the current use of the term in the Civil Code can be
45 ascertained by ordinary meaning. See Article 11. The term "child" has also been
46 deleted because of the varying meanings ascribed to the term in different articles of
47 the Civil Code. Compare, e.g., Articles 196 and 197, with Articles 2315.5 and
48 2315.6.

BOOK IV. CONFLICT OF LAWS

TITLE I. GENERAL PROVISIONS

Art. 3514. Multistate cases

Unless otherwise expressly provided by the law of this state, cases having contacts with other states are governed by the law selected in accordance with the provisions of this Book.

Revision Comments - 2025

(a) This Article does not change the law. Former Article 14 has been redesignated as current Article 3514 solely for purposes of more accurate placement in the Civil Code. Comments (b) and (c) to this Article have also been reproduced from Comments (a) and (b) to prior Article 14 with only minor stylistic amendments.

(b) Role and function of this Article. This Article replaces Articles 14 and 15 (Redesignated 1987), which contained virtually all of the choice-of-law rules of the Code. The choice-of-law rules are now placed in Book IV. This Article delineates the scope of Book IV and establishes its residual nature vis-a-vis other more specific provisions of Louisiana legislation.

(c) Role and function of Book IV. The scope of Book IV encompasses all multistate cases or "cases having contacts with other states," whether these contacts pertain to the domicile of the parties, the transaction or the occurrence giving rise to the dispute, or the location of its object or subject matter. These contacts may implicate the laws of the involved foreign states in a way that raises the potential of a conflict between their laws and the law of this state. Book IV establishes the principles for determining whether such a conflict actually exists in a given case and, if so, how it should be resolved. Through these principles, a court will determine whether the provisions of the first three books of the Civil Code as well as other Louisiana laws should apply to a particular case "having contacts with other states" and, if so, to what extent.

The residual nature of the provisions of Book IV is established by the introductory phrase of this Article "[u]nless otherwise expressly provided by the law of this state." This phrase means that the provisions of Book IV are not intended to supersede more specific choice-of-law rules contained in other Louisiana statutes, such as the Insurance Code, the Uniform Commercial Code, the Consumer Credit and Consumer Protection statutes, and the Lease of Movables Act. When applicable, those rules, being more specific, prevail over the provisions of Book IV.

* * *

Art. 3536. Real rights in corporeal movables

Real rights in corporeal movables are governed by the law of the state in which the movable was situated at the time that the right was acquired.

Nevertheless, after the removal of a movable to this state, a real right acquired while the movable was situated in another state is subject to the law of this state if: (1) the right is incompatible with the law of this state; ~~or~~ (2) the holder of

